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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,392	09/25/2001	Richard C. Fuisz	56915-038	5505
7590 01/04/2006 MCDERMOTT, WILL & EMERY 600 13th Street, N.W. Washington, DC 20005-3096			EXAMINER CHEN, TE Y	
			ART UNIT 2161	PAPER NUMBER
DATE MAILED: 01/04/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/961,392	<b>Applicant(s)</b> FUISZ, RICHARD C.	
	<b>Examiner</b> Susan Y. Chen	<b>Art Unit</b> 2161	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 November 2005.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-29 and 31 is/are pending in the application.  
 4a) Of the above claim(s) 12-27 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-2, 4-11, 28-29, 31 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Amendment***

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/15/2005 has been entered.

This office action is in response to the amendment filed on 02/10/2005.

Claims 1-2, 4-29 and 31 are pending for examination, claims 12-27 have been withdrawn; claims 1-2, 28 have been amended; claims 3 and 30 have been canceled.

Applicant is reminded to cancel all withdrawn claims (i.e., claims 12-27) to facilitate the prosecution of instant application.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct

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from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-2 and 4-11 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 and 4-11 of U.S. co-pending application No. 10/884,964. Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claims 1-2 and 4-11 of the present application merely repeat the features of claims 1-2 and 4-11 of copending Application No. 10/884,964 with few conventional details. However, it is obvious for an ordinary skilled person in the art at the time the invention was made to modify the broader claims of 10/884,964 with common details for the purpose to clarify the limitations of his/hers invention.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-11, 28-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,415,307 issued to Jones et al. (hereinafter referred as Jones) in view of U.S. Patent No. 6,868,415 issued to Kageyama et al. (hereinafter referred as Kageyama).

As to claims 1 and 28-29, Jones discloses a visual image marketing method [e.g., Abstract; col. 1, lines 12 - 20, lines 25 - 45], comprising the steps of:

recording for a product associated object location, time information and marketing information [e.g., Fig. 2 and associated texts];

transmitting a video sequence including an image of the product [e.g., col. 15, lines 47 - col. 16, lines 26];

receiving a product input from a viewer that includes a spatial location within the video sequence [e.g., Abstract, lines 16-22; the linking anchor of Fig. 2];

retrieving associated marketing information based at least in part on the spatial object location within the video sequence [e.g., the page number field of Fig. 2 and associated texts]; and

displaying said marketing information [e.g., using the Find (company Name in any sector), result Displayed in the lower field, Fig. 5], wherein the product refers to a non-textual object [e.g., the previous/next story icon and the previous/next page icons, Fig. 2] and they are varied in time.

Jones did not expressly disclose transmitting the associated object location and time information substantially concurrently with the video sequence.

However, Kageyama discloses transmitting the associated object location and time information concurrently with the video sequence [e.g., Abstract, Fig(s). 2-3 & 7-8 and associated texts].

Jones and Kageyama are in the same field of endeavor to optimizing video image viewing process via internet communication. Thus with the teachings of Jones and Kageyama in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to apply the well known technique as disclosed by Kageyama in Jones' system, because by doing so, the combined will be upgrade to transmitting the associated object location and time information substantially concurrently with the video sequence which facilitates the video image linking and reproducing process.

As to claims 2 and 31, Jones discloses a system for providing marketing information comprising:

a first transmitter [e.g., Jones: 10, Fig. 1] configured to transmit to one or more viewers a sequence of images, wherein at least one item having associated marketing information is included in a portion of the sequence of images [e.g., Jones: Fig.(s), 2-7];

the first transmitter is further configured to transmit to the viewers information relating to the spatial location of the item within the portion of the sequence of images [e.g., Jones: col. 16, lines 6 –62];

the sequence of images comprises a plurality of frames of a video [e.g., Jones: Fig.(s) 2-7];

a receiver configured to receive data from one of the viewers, wherein the data at least partially identifies the item [e.g., Jones: the personal computer, col. 6, lines 2 – 20];

a database configured to store and provide the associated marketing information about the identified item [e.g., Jones: the database storing the representation of each published document, col. 8, lines 60-63, col. 14, line 62 – col. 15, line 45]; and

a second transmitter configured to transmit to the at least one viewer the associated marketing information [e.g., Jones: the internet at col. 5, lines 50-52].

Jones fails to expressly disclose that the spatial location information are transmitted substantially simultaneously and wherein the spatial location for the at least one item varies during the portion of the sequence of images

However, Kageyama discloses that the sequence of images and the spatial location information are transmitted substantially simultaneously and wherein the spatial

location for the at least one item varies during the portion of the sequence of images [e.g., Kageyama: Fig. 9 and associated texts].

Jones and Kageyama are in the same field of endeavor to optimizing video image reproducing process via internet communication. Thus with the teachings of Jones and Kageyama in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to apply the well known technique as disclosed by Kageyama in Jones' system, because by doing so, as suggested by Kageyama, the combined will be upgrade to transmits the sequence of images and the spatial location information substantial simultaneously based on a time scrolling mechanism which enables the viewer to recall the scene of interest more definitely and facilitate the search of associated reference data [e.g., Kageyama: col. 13, lines 1-13].

As to claim 4, the combined system further discloses the system according to claim 2, wherein the received data is an item identifier useful for querying the database regarding the item [e.g., Jones: col. 4, lines 63 – col. 5, line 22].

As to claim 5, the combined system further discloses the system according to claim 2, wherein the received data are pixel coordinates and the database is further configured to map between the pixel coordinates and an item identifier useful for querying the database [e.g., Jones: col. 13, lines 6-21].



claim 2, wherein said first and second transmitter are one and the same [e.g., Jones: col. 5, lines 46-57, Note: the internet communication used by the prior art makes the system an open system by default].

As to claims 7-8, the combined system further discloses the system according to claim 2, wherein the first and second transmitter is configured to transmit to a personal computer [e.g., Jones: col. 5, lines 46 – col. 6, lines 5].

As to claims 9 and 10, the combined system further discloses the system according to claim 2, wherein the receiver and the second transmitter are configured to operate during operation of the first transmitter and after the first transmitter has substantially completed operation [the claimed features are the nature of Internet communication].

As to claim 11, the combined system further discloses the system according to claim 2, wherein the database is further configured to store and provide the associated marketing information about the identified item according to at least one of: a name associated with the sequence of images, a grid location of the identified item within an image, a pixel location within an image, a transmission time associated with the sequence of images, a temporal location within the sequence of images, an item type, an item color, an item shape, a measurement of similarity with the item, and a participant within the sequence of images [e.g. Jones: col. 13, lines 1-21].

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 and 2 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should provide and link to the most specific page and line numbers of the disclosure where the best support is found (see 35 U.S.C. 132).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Kaneko et al. (U.S. Patent No. 6,332,139) which discloses an information communication system to interchange data between a plurality of stations on the basis of the result of a plurality of data recognition schema.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen  
Examiner  
Art Unit 2161

December 22, 2005

  
**UYEN LE**  
**PRIMARY EXAMINER**